

UNITED STATES OF AMERICA)
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 v.)
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 MICHAEL ELLIS WIGGINS,)
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 Defendant.)

On September 7, 2010, pursuant to a written plea agreement, Michael Ellis Wiggins (“Wiggins”) pleaded guilty to conspiracy to distribute and possess with the intent to distribute 5 kilograms or more of cocaine and 50 grams or more of cocaine base (crack). See [D.E. 62, 63]. On December 15, 2010, the court held Wiggins’s sentencing hearing. See [D.E. 71, 74]. At the hearing, the court adopted the facts set forth in the Presentence Investigation Report (“PSR”). See Fed. R. Crim. P. 32(i)(3)(A)-(B). The court calculated Wiggins’s total offense level to be 33, his criminal history category to be III, and his advisory guideline range to be 168 to 210 months’ imprisonment. See Resentencing Report. After thoroughly considering all relevant factors under 18 U.S.C. § 3553(a), the court sentenced Wiggins to 180 months’ imprisonment. See id.; [D.E. 74]. Wiggins did not appeal.

On November 18, 2015, Wiggins moved for a sentence reduction under 18 U.S.C. § 3582(c)(2), U.S.S.G. § 1B1.10, and Amendment 782. See [D.E. 89]. Wiggins's new advisory guideline range is 135 to 168 months' imprisonment, based on a total offense level of 31 and a criminal history category of III. See Resentencing Report. Wiggins requests a 145-month sentence. See id.; [D.E. 89].

The court has discretion under Amendment 782 to reduce Wiggins's sentence. See, e.g., Chavez-Meza v. United States, No. 17-5639, 2018 WL 3013811, at *4-7 (U.S. June 18, 2018); Dillon v. United States, 560 U.S. 817, 827 (2010); United States v. Peters, 843 F.3d 572, 574 (4th Cir. 2016); United States v. Patterson, 671 F. App'x 105, 105-06 (4th Cir. 2016) (per curiam) (unpublished); United States v. Cole, 618 F. App'x 178, 178-79 (4th Cir. 2015) (per curiam) (unpublished); United States v. Thomas, 546 F. App'x 225, 225-26 (4th Cir. 2013) (per curiam) (unpublished); United States v. Perez, 536 F. App'x 321, 321 (4th Cir. 2013) (per curiam) (unpublished); United States v. Smalls, 720 F.3d 193, 195-97 (4th Cir. 2013); United States v. Mann, 709 F.3d 301, 306-07 (4th Cir. 2013); United States v. Stewart, 595 F.3d 197, 200 (4th Cir. 2010). In deciding whether to reduce Wiggins's sentence, the court finds that Wiggins engaged in serious criminal behavior involving a large quantity of illegal narcotics and firearms. See PSR ¶¶ 8-9. Moreover, Wiggins is a violent recidivist and has convictions for resisting a public officer, possession of stolen goods or property, wearing a mask to conceal identity, carrying a concealed gun, cruelty to animals, and assault on a female. See id. ¶¶ 13-20. Wiggins also has performed poorly on supervision and has no work history. See id. ¶¶ 18, 34. Wiggins has taken some positive steps while incarcerated on his federal sentence, but he has been sanctioned for giving or accepting money without authorization, phone abuse/disrupting monitoring, and being absent from assignment (two counts). See Resentencing Report; cf. Pepper v. United States, 562 U.S. 476, 491 (2011).

Having reviewed the entire record and all relevant policy statements, the court finds that Wiggins received the sentence that was "sufficient, but not greater than necessary" under 18 U.S.C. § 3553(a). Further reducing Wiggins's sentence would threaten public safety in light of his serious criminal conduct, criminal history, and misconduct while incarcerated. Cf. U.S.S.G. § 1B1.10, cmt. n.1(B)(ii). Thus, the court denies Wiggins's motion for reduction of sentence under Amendment

782. See, e.g., Chavez-Meza, 2018 WL 3013811, at *4-7; Patterson, 671 F. App'x at 105-06; Cole, 618 F. App'x at 178-79; Thomas, 546 F. App'x at 225-26; Perez, 536 F. App'x at 321.

In sum, the court DENIES Wiggins's motion for reduction of sentence [D.E. 89].

SO ORDERED. This 15 day of June 2018.



JAMES C. DEVER III
Chief United States District Judge